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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/816,036

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John A. Salentine

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EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT

PAPER NUMBER

3782

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

8

Office Action Summary	Application No.	Applicant(s)	
	10/816,036	SALENTINE ET AL.	
	Examiner	Art Unit	
	Justin M. Larson	3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 7-14, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson et al. (US 5,524,749 A).

Regarding claims 1 and 11, Thompson et al. disclose a tethering system comprising a tether housing (12b) having an internal tether (16) that is extendable, an internal spring (col. 3 line 25) for biasing the tether into a retracted position, a mounting apparatus (20) integral to said tether housing for mounting said housing on a person, and a holstering system (12a) integral to said tether housing, said tether being extendable, wherein said holstering system comprises a substantially U-shaped elevated slot (pocket formed in portion 12a has the shape and configuration of an elevated U-shaped slot). The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Thompson et al. which is capable of being used in the intended manner, i.e., allowing an electronic personal

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device to be mounted to the tether housing with the extendable tether to allow use of the personal device while also preventing the device from falling to the ground when the tether housing is mounted. There is no structure in Thompson et al. that would prohibit such functional intended use (see MPEP 2111). An electronic device could certainly be attached to the tether in place of cards (24-27).

Regarding claims 2 and 12, the device of Thompson et al. includes a lanyard loop (see esp. Figures 1B-1C) between said tether housing and said personal device, effectively satisfying the limitations of the claim. Examiner notes that when configured as shown in Figures 1B-1C, the button (22) could be pressed to lock the tether in place making it such that the personal device was mounted to the housing without there being tension on the tether.

Regarding claims 3 and 13, the device of Thomson et al. includes a lanyard attachment (30) that prevents said tether from fully retracting into said tether housing.

Regarding claims 4 and 14, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Thompson et al. which is capable of being used in the intended manner, i.e., the elevated slot (pocket) receiving a pivoting ball of a personal device. There is no structure in Thompson et al. that would prohibit such functional intended use (see MPEP 2111).

Regarding claims 7 and 17, the device of Thompson et al. includes a ratchet lock (22) to hold said tether at a desired extended length. Examiner notes that no structure

of Applicant's ratchet lock is set forth in the claims that would define over the lock of Thompson et al. Both serve to hold a tether at a desired length.

Regarding claims 8 and 9, the tether of Thompson et al. can be considered to extend through either a top or front surface of the housing, depending on how the housing is viewed.

Regarding claims 10 and 18, Thompson et al. teach that the mounting device may include a mounting clip (20a, Figure 4A).

3. Claims 1, 4, and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Wong (US 6,546,103 B1).

Regarding claim 1, Wong discloses a tethering system comprising a tether housing (10) having an internal tether (12) that is extendable, a mounting apparatus (40/41) integral to said tether housing, and a holstering system (30) integral to said tether housing and arranged to allow an electronic personal device (21) to be mounted to said tether housing with said tether attached to said personal device, said tether being extendable to allow use of said personal device while also preventing said personal device from falling to the ground when said tether housing is mounted, wherein said holstering system comprises a substantially U-shaped elevated slot (30).

Regarding claim 4, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Wong which is capable of being used in the intended manner, i.e., the elevated slot receiving a pivoting ball of a

personal device. There is no structure in Wong that would prohibit such functional intended use (see MPEP 2111).

Regarding claims 8 and 9, the tether of Wong can be considered to extend through either a top or front surface of the housing, depending on how the housing is viewed.

Regarding claim 10, the device of Wong includes a mounting clip (40/41).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, 6, and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tien (US 5,620,120 A) in view of Wong.

Regarding claim 1, Tien discloses a system comprising a mounting apparatus (20/21) and a holstering system (11) arranged to allow an electronic personal device to be mounted thereto, wherein said holstering system comprises a substantially U-shaped elevated slot (100). Tien fails to disclose a tether housing coupled between the mounting apparatus and the holstering system, wherein the tether housing includes an extendable/retractable tether attachable to said electronic personal device.

Wong, however, teaches that it is desirable to provide a tether housing (10) with a tether (12) between a mounting apparatus (40/41) and a holstering system (30) so that a portable electronic device will not accidentally fall to the ground and be damaged

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or get lost. It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement a tether housing and tether between the mounting apparatus (20/21) and holstering system (11) of Tien, as taught by Wong, so that the personal electronic device of Tien would not fall to the ground and become damage or lost.

Regarding claim 4, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over the modified Tien device which is capable of being used in the intended manner, i.e., the elevated slot receiving a pivoting ball of a personal device. There is no structure in the modified Tien device that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 6, a leg (13) of the U-shaped elevated slot of the modified Tien device comprises a hinge (18/140) that acts in securing a personal device in the slot.

Regarding claims 8 and 9, the tether of the modified Tien device can be considered to extend through either a top or front surface of the housing, depending on how the housing is viewed.

Regarding claim 10, the modified Tien device includes a mounting clip (21).

6. Claims 11, 14, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tien in view of Wong as applied in paragraph 5 above, and further in view of Decoteau (US 6,502,727 B1).

The modified Tien device includes the claimed features except for there being a spring internal to said housing. The tether housing of Wong that has been implemented

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on the device of Tien is said to include a spool, but it is never specified that the spool acts upon a spring. Decoteau, however, teaches that it is known for such spools (32) to be spring (34) activated. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the spool of the modified Tien device spring activated, as taught by Decoteau, since such a spool mechanism is already known in the art and allows for an extendable/retractable spool/tether system.

Response to Arguments

7. Applicant's arguments with respect to the Ohama and Decoteau references have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's arguments with respect to the combination of Wong and Decoteau have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments with respect to the Thompson reference have been fully considered but they are not persuasive. Applicant has asserted that Thompson does not disclose a holstering system arranged to allow an electronic personal device thereto and also that Thompson fails to disclose a U-shaped elevated slot. Regarding the electronic device, as set forth in paragraph 2 above, "The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Thompson et al. which is capable of being used in the intended manner, i.e., allowing an electronic personal device to be mounted to the tether housing with the extendable tether to allow use of the personal device while also preventing the device from falling to the ground when the tether housing is mounted. There is no structure in Thompson et al. that would

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prohibit such functional intended use (see MPEP 2111). An electronic device could certainly be attached to the tether in place of cards (24-27).” Regarding the U-shaped elevated slot, Examiner is of the position that the pocket form in portion (12a) of Thompson can be considered a U-shaped elevated slot to the degree that it is U-shaped and is elevated from the tether housing.

10. Applicant's arguments with respect to the Wong reference have been fully considered but they are not persuasive. Applicant has asserted that Wong fails to disclose a substantially U-shaped elevated slot. Examiner is of the position that the holding plate (30) of Wong is substantially U-shaped and provides a slot that is elevated above the tether housing (10).

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
8/11/07


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